



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

September 29, 1995

Honorable Victor Fajardo
Secretary of Education
Puerto Rico Department of Education
Commonwealth of Puerto Rico
G.P.O. Box 759
Hato Rey, Puerto Rico 00919

Dear Dr. Fajardo:

During the week of March 27, 1995, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Puerto Rico Department of Education's (PRDE's) implementation of Part B of the Individuals with Disabilities Education Act (Part B). The purpose of the review was to determine whether PRDE is meeting its responsibility to ensure that its educational programs for children with disabilities are being administered in a manner consistent with the requirements of Part B. A copy of our report, entitled "Office of Special Education Programs Monitoring Report: 1995 Review of the Puerto Rico Department of Education (Report)," is enclosed.

As noted in the Report, we found problems in the effectiveness of PRDE's monitoring, due process hearing, and complaint management procedures. In addition, we noted problems related to the provision of a free appropriate public education, least restrictive environment, transition services, due process and procedural safeguards and comprehensive system of personnel development.

OSEP also analyzed the results of the Compliance Agreement that the Department of Education entered into with PRDE on April 28, 1993. The purpose of the Compliance Agreement is to bring PRDE into full compliance with Part B as soon as possible but no later than April 28, 1996. During this period, the Department will continue to provide Part B funds as long as PRDE meets the terms and conditions of the Agreement. Among other things, the Compliance Agreement sets forth PRDE's commitment for reducing to zero, on an incremental basis, the number of children with disabilities who have been waiting beyond 30 days for initial evaluations and 36 months for reevaluations, and who have not received all of the related services in their individualized education programs. PRDE is further obligated to reduce the

600 INDEPENDENCE AVE., S.W. WASHINGTON, D.C.

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

numbers of children waiting for evaluations and related services to levels established in the Agreement on a quarterly basis. PRDE is in its third year under the Compliance Agreement. As of June 30, 1995, there were no children waiting for initial evaluations for more than thirty days, and the number of children waiting for reevaluations for more than 36 months was below the level established by the Compliance Agreement for this date. We commend PRDE for the effective steps it has taken to meet or exceed the requirements of the Compliance Agreement in these two areas.

However, the provision of related services, documented in Section I of this Report, demonstrates a serious failure by PRDE to meet the terms of the Compliance Agreement and to fulfill its obligation under Part B to have "in effect a policy that assures all children with disabilities the right to a free appropriate public education." 20 U.S.C. 1412(a)(1) and 34 CFR 300.121. If related services are not provided in accordance with the Compliance Agreement by April 28, 1996, the Department will take enforcement action against Puerto Rico.

The preliminary findings of OSEP's on-site compliance team were discussed with Mrs. Maria Morales and her staff at an exit conference held on March 31, 1995. At this time, PRDE was invited to provide any additional information it wanted OSEP to consider during the development of findings for the compliance report. No further information was provided. Therefore, the findings included in this Report are final.

PRDE's corrective action plan must be developed within 45 calendar days of receipt of this Report. We will work with your agency in developing this plan. Should we fail to reach agreement within this 45 day period, OSEP will be obliged to develop the corrective action plan.

In the event PRDE concludes, after consideration of the data in this Report, that evidence of noncompliance is significantly inaccurate and that one or more findings is insupportable, PRDE may request reconsideration of the finding. In such a case, PRDE must submit reasons for its reconsideration request and any supporting documentation within 15 calendar days of receiving this Report. OSEP will review the request and, where it agrees that the facts contained in the Report are insufficient to support the finding, issue a letter of response informing PRDE that the finding has been revised or withdrawn. Requests for reconsideration of a finding will not delay corrective action plan development and implementation timelines for findings not part of the reconsideration request.

I want to thank you for the assistance and cooperation provided during our review. Throughout the course of the monitoring process, Ms. Morales and her staff were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to acquire an understanding of your various systems to implement Part B. I also want to thank Myrta Reyes for the extraordinary assistance she provided to the OSEP team.

Members of OSEP's staff are available to provide technical assistance during any phase of the development and implementation of your corrective actions. Please let me know if we can be of assistance. Thank you for your continued efforts toward the goal of improving education programs for children with disabilities in Puerto Rico.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs

cc: Mrs. Maria Morales

OFFICE OF SPECIAL EDUCATION PROGRAMS
MONITORING REPORT:

1995 REVIEW OF
THE PUERTO RICO DEPARTMENT OF EDUCATION'S
IMPLEMENTATION OF PART B OF
THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEPTEMBER 1995

TABLE OF CONTENTS

INTRODUCTION	iii
I. FREE APPROPRIATE PUBLIC EDUCATION.	1
II. GENERAL SUPERVISION	12
III. DUE PROCESS AND PROCEDURAL SAFEGUARDS	21
IV. LEAST RESTRICTIVE ENVIRONMENT	24
V. TRANSITION/IEP	31
VI. PROTECTION IN EVALUATION PROCEDURES	38
APPENDIX: PUBLIC AGENCY KEY	40

INTRODUCTION

OSEP REVIEW PROCESS: During the week of February 6, 1995, OSEP conducted public meetings in San Juan, Ponce and Aguadilla. In addition, OSEP participated in a meeting, convened by the Asociacion De Padres Pro Bienestar Ninos Impedidos De Puerto Rico, Inc., with representatives of several advocacy organizations in the Commonwealth. OSEP also invited written public comment and, over the fall, received comments from approximately twenty-five individuals and organizations.

Several themes emerged as Commonwealth-wide concerns when all of the information obtained from parents and advocates was analyzed.

Those issues raised by parents and advocates and investigated by OSEP are briefly summarized below.

1. Shortage of qualified personnel
2. Delays in providing necessary special education and related services
3. Insufficient instructional time
4. Failure to inform parents of their rights
5. Inaccessible educational facilities
6. Limited access to regular education programs
7. Failure to develop and implement transition plans
8. Inadequate transportation services

OSEP carefully examined the issues raised by parents and advocates. In some instances findings of noncompliance with Part B were made and these can be found in the appropriate sections in this Report. During the week of February 6, 1995, OSEP met with Secretary Victor Fajardo, Assistant Secretary Maria Morales and PRDE staff responsible for administering the State's special education programs in order to collect preliminary information about Puerto Rico's special education system and begin making arrangements for OSEP's on-site visit.

During the week of March 27, 1995, OSEP conducted its on-site review of PRDE. The team conducting the review was composed of Gregory Corr, Judith Gregorian, Joan Pine and Debra Sturdivant. Judith Gregorian, OSEP's State Contact for Puerto Rico, spent the week at PRDE's office in Hato Rey reviewing compliance documents and conducting interviews with PRDE staff responsible for administering the special education program.

The other three members of OSEP's staff visited schools in five regions. They reviewed student records and interviewed local school, district and regional staff about their special education

programs. Prior to the visits, OSEP asked each district and region to complete placement charts by disability and type of placement (e.g. regular class, resource class, etc.). Data collected from these site visits are used to support or clarify

the OSEP findings regarding the sufficiency and effectiveness of PRDE's systems.

Throughout the Report, OSEP makes reference to information obtained through interviews with teachers, related service providers, and administrators. In all cases, OSEP has established that those persons interviewed were knowledgeable about and routinely involved in the areas about which they were questioned. Specifically, OSEP interviewed only those special education teachers responsible for providing services to the students whose records were reviewed, and the administrators responsible for programs in the schools of the students whose records were reviewed.

In conducting this review, OSEP placed a strong emphasis on those requirements most closely associated with positive results for students with disabilities, and on the systems that PRDE uses to meet its general supervision responsibility, including the provision of a free appropriate public education, education in the least restrictive environment, transition services for students with disabilities who are at least sixteen years of age (or younger if determined appropriate), and PRDE's monitoring and complaint procedures.

Information gathered by OSEP as part of its monitoring review demonstrates that PRDE did not, in all instances, establish and exercise its general supervisory authority in a manner that ensures that all public agencies within the Commonwealth comply with the requirements of Part B and EDGAR. Where findings are based, in part, on data collected from student records and local staff interviews, OSEP does not conclude that these findings establish that similar problems are present in every school in Puerto Rico. However, because PRDE's systems for ensuring compliance have not been fully effective for the reasons cited in this Report, OSEP requires PRDE to undertake corrective actions to improve its systems for ensuring Statewide compliance with Part B.

CORRECTIVE ACTION REQUIRED
<p>1. PRDE must issue a memorandum to regions, districts, and schools advising them of OSEP's findings of deficiency. The memorandum must direct schools to review their respective policies and procedures with regard to each of the deficiencies identified by OSEP in order to determine if they have proceeded in a manner similar to those schools for which OSEP found deficiencies. Should the schools determine that their current practice is inconsistent with the requirements identified in PRDE's memo, they must immediately discontinue the current practice and implement the correct procedure. This memorandum must be submitted to OSEP within thirty days of the issuance of the this Report. Within 15 days of OSEP's approval of the memorandum, it must be issued to all schools for which PRDE is responsible.</p> <p>2. PRDE must issue a memo to those regions, districts, and schools in which OSEP found deficient practices, as identified in this Report, requiring those districts to discontinue immediately the deficient practice(s) and submit documentation to PRDE that the changes necessary to comply with Part B requirements have been implemented. PRDE must send OSEP verification that all corrective actions have been completed by these public agencies. This memo must be submitted to OSEP within thirty days of the issuance of this Report. Within 15 days of OSEP's approval of the memorandum, it must be issued to those agencies in which OSEP found deficient practices.</p>

DESCRIPTION OF PRDE'S SPECIAL EDUCATION SYSTEM: Puerto Rico's total count for children with disabilities aged birth through 21 was 41,110. Their December 1, 1994 Part B child count was 40,510 generating \$18,077,191 in Part B funds for appropriation year 1996.

The Puerto Rico Department of Education is a unitary agency which includes seven educational regions and 100 school districts. The structure of the State educational agency (SEA) differs from most other SEAs in that the school districts and educational regions are all components of PRDE, and are not separate local educational agencies or sub-grantees.

The Secretary of Education is the chief official for education in Puerto Rico, and is appointed by the Governor. The Secretary appoints several Assistant Secretaries, including the Assistant Secretary for Special Education. All employees of PRDE, including all employees at the regional and district levels, are hired and fired by the Secretary.

PRDE is divided into seven educational regions. Each of the seven Regions is administered by a Regional Director, who reports directly to the Secretary. Each Region has at least one Regional Supervisor of Special Education who reports to the Regional Director, and who is responsible for supervising special education activities in the Region, including the provision of evaluation and related services.

Each of the seven educational regions is divided into 13-16 school districts; there are a total of 100 school districts in PRDE. Populous municipalities, including San Juan, Rio Piedras, and Ponce, are divided into multiple Districts. Each of the 100 School Districts is administered by a Superintendent, who is appointed by the Secretary. In the past, Superintendents reported to the Regional Directors. Pursuant to the Organic Law enacted in 1990, Superintendents now report directly to the Secretary. Each School District has a Zone Supervisor, who reports to the Superintendent, and who coordinates special education programs within the District. The Zone Supervisor has no supervisory authority over special education teachers or related services personnel in the District. All special education teachers report to the school principal or director (who reports to the superintendent); any related services personnel who are assigned to a school district report directly to the Superintendent.

INITIATIVES

The seven Educational Regions are Arecibo, Bayamon, Caguas, Humacao, Mayaguez, Ponce, and San Juan.

The focus of OSEP's compliance monitoring is the determination of the extent to which a State is providing programs to students with disabilities in compliance with the requirements of Part B, and the primary focus of OSEP's review of PRDE and of this Report is the identification of areas in which PRDE's systems have not been fully effective in ensuring compliance with those requirements. An additional focus of the review, however, was the collection and analysis of information regarding the steps PRDE is taking to improve special education programs in several areas. Of particular interest are the following:

1. Collaboration with Roche Pharmaceutical and other private corporations to improve physical facilities for related services and increase the provision of materials needed for educational purposes.

2. Parents' Representative Committee - Parents meet with the Assistant Secretary on a monthly basis to discuss common problems and issues related to the provision of services. Through this committee, PRDE assures parent participation in the analysis and development of policies that affect their children.

3. Special projects supported by PRDE that promote the integration of students with disabilities with their nondisabled peers, such as the: Inclusion Project for deaf preschool children; Deaf-blind Project at the Ruiz Soler Hospital developed in coordination with Head Start and the Health Department; and the Down Syndrome Project which focuses preschool services on the inclusion of students with disabilities related to Down Syndrome, in regular school groups.

4. Alternative education program developed in collaboration with the Puerto Rico Volunteer Youth Corp, that provides special education, related services, and vocational training to eligible youth at risk for dropping out of school.

5. PRDE has also initiated plans to: develop school-based models for the provision of related services; certify regular school directors in the administration of special education; offer a Director's Special Education Academy to provide in-service training to regular school directors with an emphasis on promoting a school-based model of teacher supervision; and provide training programs and tuition-free college courses for regular education teachers to prepare them for the inclusion of special education students in their classrooms.

A NOTE ABOUT THE FINDINGS IN THIS REPORT

The challenges that PRDE faces in coming into full compliance with Part B are more fundamental than the individual instances of noncompliance cited in this report would indicate. These fundamental challenges, which are related to many of the findings in this report, include a lack of qualified personnel, inaccessible and inadequate facilities, and the service delivery model used by PRDE to provide related services. Unless these challenges can be overcome, PRDE will be hard pressed to reach its goals of coming into full compliance with Part B and providing quality special education and related services to all children with disabilities in the Commonwealth.

One major problem that PRDE faces is a lack of qualified personnel to provide related services. This one problem, in turn, causes several other problems. For example, the lack of qualified personnel has resulted in many children not receiving all the related services specified in their IEPs. In addition, those children that do receive related services usually receive those services at a site other than the school they regularly attend. The reason for this is that PRDE, because it does not have enough related service personnel to staff all of its schools, provides related services at centralized locations. Under this system, children are transported from the school they normally attend to other locations for related services. This is problematical for several reasons. First, the time involved in transporting children to the sites where related services are provided disrupts their educational program. Second, related services, when provided at a site other than the school regularly attended by a child, will not be as effectively coordinated with special education because the related service providers and special educators will have less opportunity to confer. Third, because PRDE does not have the resources to transport all children in need of related services, it must rely on parents and independent contractors to provide this service. This system is inefficient, unreliable -- contractors cease to provide services if they are not paid or their contracts expire -- uses resources that could be better spent on providing services to children, and frustrates parents who complain about disruption to their schedules and late reimbursements that do not fully compensate them for the costs they have incurred in transporting their children.

Even if PRDE had adequate personnel to staff all schools, there is no guarantee that they could provide related services at those schools because of inadequate space or facilities. Accessibility

of the school buildings is also a problem, resulting in students receiving services in highly restrictive settings, such as homebound services for students with physical disabilities.

Finally, PRDE's service delivery model uses one service provider to serve one child at a time, regardless of the needs of the child. This service delivery model does not make efficient use of service provider time in a system that is understaffed to begin with. By using alternative service delivery models, such as group therapy where appropriate, PRDE could serve more children without sacrificing quality.

In developing a CAP, both PRDE and OSEP must take these fundamental problems, and their interrelatedness, into account. For example, in trying to address the shortage of related service providers, both PRDE and OSEP must ascertain how reforms to the service delivery model can facilitate a solution to this problem.

In trying to devise methods for providing services at the schools children normally attend, both PRDE and OSEP must be mindful of the shortage of space and equipment at these facilities. PRDE must also work to develop the trust and support of parents for any efforts that are made to reform the systems for delivering special education and related services. Because of the long-term problems PRDE has faced in providing special education and related services, parents and advocates are often suspicious of any reform efforts. In order for long-term reform to be effective, parents and advocates must be a part of the process and come to understand the benefits of systemic change for all children with disabilities in Puerto Rico.

In addition to PRDE's long range efforts to reform the provision of special education and related services, it is imperative for PRDE to solve its immediate problems in order to meet the goals established in the Compliance Agreement. PRDE must meet all terms of the Compliance Agreement by April 28, 1996, including those concerning the provision of related services to all children with disabilities, or the Department will take appropriate enforcement action.

I. FREE APPROPRIATE PUBLIC EDUCATION

PRDE is responsible for ensuring that a free appropriate public education (FAPE) is available to all children with disabilities within the Commonwealth, and must ensure that each student with a disability receives the related services that are required to assist the child to benefit from special education as required by 300.300, 300.8, and 300.16(a).

BACKGROUND

OSEP's 1991 monitoring report described serious deficiencies with PRDE's provision of evaluations, reevaluations, and related services to thousands of children with disabilities. The causes for these violations included: (a) lack of funds; (b) lack of trained personnel; (c) inadequate system of administrative control and accountability; (d) lack of fiscal leverage over school districts because of PRDE's unitary structure; and (e) salary and degree requirements and conditions of employment that made it more attractive to be a teacher than a therapist or a psychologist. The report clearly established that PRDE had failed to meet its basic obligation to ensure that all children in the Commonwealth have the right to a free appropriate public education.

Although PRDE submitted a corrective action plan to correct the deficiencies during the 1991-1992 school year, the Department concluded that PRDE would not be able to achieve full compliance with Part B within a year. This conclusion was based on the magnitude of the problem and the practical and organizational difficulties involved in solving it during the course of a single school year. OSEP had two options for addressing this situation: either withhold funds because PRDE had failed to comply substantially with Part B, in which case the Department could suspend funds while PRDE appealed the withholding determination; or enter into a Compliance Agreement with PRDE. A Compliance Agreement would establish terms and conditions necessary for compliance over a three-year period and allow funding to continue during this period.

PRDE asked the Department to consider the possibility of a Compliance Agreement. In response, the Department held public hearings on the matter and collected information to decide if a Compliance Agreement was appropriate. On April 28, 1993, the U.S. Secretary of Education issued the decision which held that the Department should enter into a Compliance Agreement with PRDE. That decision was based on evidence establishing that:

compliance was not feasible until a future date; PRDE could be in compliance within a three year period; and PRDE could make steady and measurable progress toward compliance during the term of the Compliance Agreement.

Compliance Agreement

Under the Compliance Agreement, PRDE has until April 28, 1996 to come into full compliance with its obligations under Part B to evaluate, reevaluate, and provide required related services to all eligible children in the Commonwealth. While the Compliance Agreement is in effect, PRDE must meet specific benchmarks for reducing the number of eligible children who have not been evaluated, reevaluated, or provided with required related services. In addition, PRDE must report, on a quarterly basis, on its progress in meeting these benchmarks. The benchmarks were developed by PRDE and this agency on the basis of the number of children who, as of March 1, 1993, had not been evaluated within 30 days of registration, had not been reevaluated within 36 months, and were not receiving related services specified in their IEPs. If problems addressed by the Compliance Agreement are not fully resolved by April 28, 1996, the Department will take appropriate enforcement action.

All school districts in Puerto Rico maintain a special education "registry," to record the dates on which children are identified, evaluated, and placed. A child's name is entered in the registry book when the district has determined that the child should be evaluated to determine whether he or she has a disability and requires special education services. PRDE's own special education procedures manual requires that an initial evaluation be provided within 30 days of registration.

OSEP reviews the data provided by PRDE in these quarterly reports to monitor progress in meeting the requirements of the Agreement.

This ongoing analysis allows OSEP and PRDE to work together in identifying problems as early as possible and developing solutions. The following charts present data from the first eight reporting periods and illustrates PRDE's performance as measured against the benchmarks established by the Agreement for those periods.

OSEP has determined that PRDE's procedures for monitoring the accuracy of the quarterly progress reports are sufficient to ensure reliable data.

Under the Agreement, there are a total of 11 reporting periods.

CHART 1

**INITIAL EVALUATION AND REEVALUATION PERFORMANCE
COMPARED TO COMPLIANCE AGREEMENT REQUIREMENTS
(NUMBERS REFLECT STUDENTS NOT EVALUATED)**

REPORTING PERIOD	COMPLIANCE AGREEMENT GOAL FOR CHILDREN AWAITING INITIAL EVALUATION	PRDE REPORT ON ACTUAL NUMBER OF CHILDREN AWAITING INITIAL EVALUATION	COMPLIANCE AGREEMENT GOAL FOR CHILDREN AWAITING REEVALUATION	PRDE REPORT ON ACTUAL NUMBER OF CHILDREN AWAITING REEVALUATION
3/1/93 to 9/30/93	2,341	2,797	10,346	9,274
10/1/93 to 12/31/93	1,773	1,440	9,771	8,184
1/1/94 to 3/31/94	1,215	521	9,196	5,240
4/1/94 to 6/30/94	647	243	8,621	3,372
5/1/94 to 9/30/94	80	69	8,046	2,900
10/1/94 to 12/31/94	0	65	6,437	2,367
1/1/95 to 3/31/95	0	12	4,828	1,932
4/1/95 to 6/30/95	0	0	3,219	1,512

Results from the eighth reporting period indicate that PRDE is meeting the established benchmarks for reducing the number of children waiting for reevaluations for more than 36 months and eliminating the number of children waiting more than 30 days after registration for initial evaluations.

CHART 2

**RELATED SERVICES PERFORMANCE COMPARED
COMPLIANCE AGREEMENT REQUIREMENTS
(NUMBERS REFLECT STUDENTS NOT SERVED)**

REPORTING PERIOD	COMPLIANCE AGREEMENT GOAL FOR NUMBER OF 3/1/93 LIST CHILDREN NOT RECEIVING REQUIRED RELATED SERVICES	PRDE REPORT ON PERFORMANCE WITH RESPECT TO 3/1/93 LIST CHILDREN	COMPLIANCE AGREEMENT GOAL FOR NUMBER OF POST 3/1/93 CHILDREN NOT RECEIVING REQUIRED RELATED SERVICES	PRDE REPORT ON PERFORMANCE WITH RESPECT TO POST 3/1/93 CHILDREN
3/1/93 to 9/30/93	5,529	4,764	450	1,446
10/1/93 to 12/31/93	5,183	4,296	413	1,661
1/1/94 to 3/31/94	4,607	2,557	375	1,888
4/1/94 to 6/30/94	4,031	2,050	338	2,003
5/1/94 to 9/30/94	3,455	1,759	300	2,472
10/1/94 to 12/31/94	2,879	1,424	263	2,562
1/1/95 to 3/31/95	2,303	1,091	225	2,590
4/1/95 to 6/30/95	1,727	918	183	3,166

As is illustrated by Chart 2, measurement of PRDE's provision of required related services is broken down into two categories: children who, as of March 1, 1993, were not receiving required related services (3/1/93 list children), and children who have been identified by PRDE after March 1, 1993 as not receiving required related services (post 3/1/93 children). PRDE's performance with respect to the first category of children, set out in columns 2 and 3 of Chart 2, has met the benchmarks established by the Agreement. On June 30, 1995, the number of children in this category had been reduced to 918. Under the Agreement, the number of children in this category only had to be reduced to 1,727 by that date. PRDE's performance with respect to providing required related services to the second category of children, set out in columns 4 and 5 of Chart 2, has not met the benchmarks established by the Agreement. According to the Agreement, the number of post March 1, 1993 children not receiving required related services was to be reduced to 182 by the end of reporting period eight, June 30, 1995. Instead, the

number of these children not receiving required related services was 3,166 by that date. Moreover, the number of post March 1, 1993 children not receiving required related services has gone up in every reporting period, from 1,446 on September 30, 1993, the end of reporting period one, to 3,166 on June 30, 1995, the end of reporting period eight.

PUBLIC MEETINGS

OSEP received numerous comments about delays in receiving required related services for children with disabilities when it conducted public meetings in Puerto Rico. Participants complained about long waiting lists and a lack of qualified related services providers.

FINDING: Based on the facts provided below, OSEP finds that PRDE did not consistently meet its responsibility to ensure that each student with a disability receives the related services that are required to assist the child to benefit from special education. 34 C.F.R. 300.300, 300.8, and 300.16(a). Specifically, OSEP found that many students with disabilities were not receiving the related services in their IEPs.

a. PRDE has failed to meet the Agreement's requirements for reducing the number of post March 1, 1993 children who are not receiving required related services. The failure to meet this part of the Agreement has off-set the progress PRDE has made in reducing the number of children who, as of March 1, 1993, were not receiving required related services.

Moreover, the steady increase in the number of post March 1, 1993 children who are not receiving required related services, from 1,446 on September 30, 1993 to 3,166 on June 30, 1995, calls into question PRDE's ability to meet the terms of the Agreement, and its continued eligibility under Part B. PRDE has less than one year to meet the terms of the Agreement before it expires on April 28, 1996.

b. OSEP reviewed a sample of 23 files where students had related services on their IEPs, and interviewed the students' teachers about those files. OSEP found that 14 of the 23 students whose files they reviewed were not getting the related services required by their IEPs.

c. Interviews with PRDE officials at all levels, central, regional, district and school, confirmed the extent and seriousness of the problem in providing needed related

services. OSEP also interviewed PRDE officials to determine the status of the initiatives PRDE had proposed to address personnel shortages. Officials from the central office responsible for addressing personnel shortages and negotiating contracts with individual service providers, told OSEP that the most difficult services to obtain are speech therapy, physical therapy and occupational therapy. The salary PRDE can offer therapists was identified as the greatest barrier to recruiting and retaining sufficient personnel.

Although PRDE had identified several initiatives to address personnel shortages under the previous administration, OSEP found that these initiatives either did not yield the desired outcomes, or they were not fully implemented. New initiatives were being developed, but they were still in the planning stages. Some examples of these initiatives are listed below.

To attract qualified applicants, PRDE raised the salaries of related service providers by \$300.00 per year. Previously, PRDE had indicated that the more favorable salary and benefits available to teachers made attracting additional related service providers difficult. The impact of the salary increase on remedying this problem was undermined by a comparable raise in teacher salaries. The end result of these salary increases was that the gap between the salaries and benefits of teachers and related services providers was maintained.

To increase their supply of related service providers, PRDE negotiated an interagency agreement with the Department of Health. Under that agreement, new graduates in the allied health professions may fulfill their public service commitments with PRDE. However, the agreement has

Previously, PRDE purchased related services from contractors that set rigid terms on the time and location of services. Frequently these terms were inconsistent with the needs of PRDE and the children it serves. PRDE is now proposing to purchase related services from these providers on a fee-for-service basis that does not include these rigid terms. PRDE anticipates that this will result in more effective provision of related services through contracts.

The Department of Health requires graduates in the allied health professions, who received tuition assistance, to provide a year of public service. This is accomplished by working with the Department of Health.

not been fully implemented. One of the problems with this initiative is that it does not guarantee that new graduates in these fields will complete their year of public service with PRDE. The needs of the Health Department for the services of the graduates have priority over PRDE's needs. Only after the needs of the Health Department are fully met will graduates have the option of performing their public service year for PRDE.

PRDE has also proposed increasing the number of related service providers by offering teachers who also hold certifications in the needed related service fields the opportunity to work additional hours as part-time therapists. This would allow teachers to retain their higher salaries and benefits, while increasing the number of related services providers. However, the salary teachers would earn for their hours of service as therapists would be reduced to the less favorable rate offered by PRDE to related services personnel.

d. A PRDE official, who was recently given the responsibility for developing PRDE's Comprehensive System of Personnel Development, informed OSEP that PRDE was unable to plan adequately for the needs of children with disabilities who need related services to benefit from special education.

Specifically, PRDE was unable to determine: (1) the number and type of personnel needed for each profession or discipline over the next five years; (2) the number of students enrolled in institution of higher education programs for the preparation of related services personnel; or (3) the number of graduates, during the past ten years, from institutions of higher education programs for the preparation of related services personnel.

e. OSEP's 1991 monitoring report stated that the "centralized provision of most related services in the regional office or hospital settings significantly impeded the ability of PRDE in general, and districts in particular, to ensure that all children received the related services set forth in their IEPs." PRDE officials and parent groups complain that the current service delivery model continues to result in a lack of coordination between the therapeutic services a child receives and the child's special education program which compromises the goal to achieve in-school and post-school results. PRDE officials also added that the

PRDE, since the time of OSEP's visit, has sought technical assistance to develop the capacity to obtain and utilize these data.

current service delivery model continues to impede PRDE's ability to meet the needs of all the children who need related services set forth in their IEPs because of the cost of transporting children to and from the related services centers. These officials emphasized the importance of delivering services in ways that best meet the needs of

students and make the most efficient and effective use of treatment time.

PRDE has explored ways to promote a more efficient use of existing personnel resources. These include analyzing existing schedules to determine if there is a duplication of services, developing guidelines for alternative service delivery models and training IEP teams to use these guidelines. Although PRDE has previously identified the need to streamline and coordinate efforts it has only just identified ways to maximize its resources, and further, implementation will not begin until 1995-1996 school year (at which time PRDE plans to complete the guidelines and training).

FINDING: Extended School Year (ESY): Based on the facts provided below, OSEP finds that PRDE did not consistently meet its responsibility under 300.300 to ensure that ESY services are considered and provided if necessary to ensure that a student receives FAPE. In addition, PRDE failed to ensure that students were not excluded from consideration for ESY on the basis of the category of their disability. Public agencies must provide ESY services to all students with disabilities who require those services to receive FAPE, including students who require such services because they experience significant regression in academic areas.

PRDE's revised monitoring procedures do not include a method for determining whether public agencies are meeting their obligation to consider and provide, where necessary for FAPE, ESY services. In addition, these revised monitoring procedures do not have a

PRDE's service delivery model is a traditional clinical (i.e. pull-out) model. Most related services are provided outside the school setting in regional offices or medical facilities. Because most related services are provided in regional centers or hospital settings, students need to be transported from their classrooms, sometimes long distances, to receive their related services. PRDE's efforts to decentralize the provision of related services have for the most part involved establishing additional Centers for Evaluation and Therapy called "mini-CETs." This model, while bringing services closer to children and minimizing travel, still requires that children receive their services outside the school they normally attend. In fact, only three school districts in Puerto Rico provide related services in schools.

method for ascertaining whether students are excluded from consideration for ESY solely on the basis of the category of their disability. Finally, in some instances students who might experience severe regression in areas other than self-sufficiency skills, e.g. academic skills, were not considered for ESY services.

In an interview with OSEP, regional and district officials in Region B stated that only students with disabilities who are served in separate classes qualify for ESY services. They explained that students who receive special education services in resource room settings are categorically ineligible for ESY services. District and regional officials in Region D told OSEP that of the twelve districts in the Region, only one, the district visited by OSEP, does not provide ESY services.

FINDING/ FEDERAL REQUIREMENT	EXPECTED OUTCOME/ACTION REQUIRED	ACTIVITIES TO MEET OUTCOME REQUIREMENT	RESOURCES	TIMELINE FOR SUBMISSION
Free Appropriate Public Education (FAPE) 1. 300.300, 300.8 and 300.16(a) (Ensure that each public agency provides special education and related services to each child with a disability in a manner consistent with his or her IEP.)	PRDE must ensure that all public agencies provide a program consistent with each child's IEP. (As set forth at 300.300, each State must ensure that FAPE is available to all children with disabilities, including related services as set forth in 300.16.)			
2. 300.300 (Extended school year services)	PRDE must ensure that public agencies provide ESY services to all students with disabilities who require those services to receive FAPE, including students who require such services because they experience significant regression in academic areas.			

II. GENERAL SUPERVISION

The Puerto Rico Department of Education (PRDE) is responsible for ensuring that each educational program for children with disabilities administered within Puerto Rico, including each program administered by any other agency: (a) is under the general supervision of the persons responsible for educational programs for children with disabilities in PRDE, and (b) meets the education standards of PRDE, including the requirements of Part B of the Individuals with Disabilities Education Act (Part B). 20 U.S.C. 1412(6) and 34 CFR 300.600. See also Section 441(b)(3)(A) of the General Education Provisions Act.

PRDE must adopt and use effective methods of administering each program, including: (1) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions and organizations under the law; and (2) correction of deficiencies in program operations that are identified through monitoring and evaluation.

PRDE must adopt written procedures for complaint management which are consistent with the requirements of 300.660-300.662.

- A. PRDE is responsible for the adoption and use of effective methods to monitor public agencies responsible for carrying out special education programs. (Sec. 441 of the General Education Provisions Act (GEPA), as amended by the Improving America's Schools Act of 1994 [formerly Sec. 435 of GEPA, 20 U.S.C. 1232d(b)(3)]). A State shall keep records to show its compliance with program requirements. 76.731.

BACKGROUND

In its 1991 monitoring report, OSEP found that PRDE's Assistant Secretary did not have the authority to ensure correction of

PRDE also has specific monitoring responsibilities under Part B with regard to placement in the least restrictive environment (300.556) and placement of children with disabilities in private facilities by public agencies (300.402).

deficiencies of violations of Part B and did not understand that PRDE's Secretary of Education did have that authority. Also, PRDE had no procedures for determining whether agreed-upon correction plans were implemented. Consequently, PRDE took no action to compel educational regions or school districts to take necessary corrective actions, if they failed to comply. PRDE was required by OSEP's report to submit monitoring procedures to OSEP that would enable PRDE to identify and correct deficiencies in the provision of special education and related services in the Commonwealth. These procedures were to be implemented by PRDE no later than May 1, 1992.

The April 28, 1993 Compliance Agreement underscored the importance of monitoring by stating PRDE's commitment to strengthen its monitoring system as part of its obligation to develop the systems and procedures needed to bring the Commonwealth's special education program into compliance with Part B. PRDE agreed to report to OSEP on, among other things, its efforts to implement an effective monitoring process and the effect of that process on compliance with Part B. That report, submitted to OSEP on January 31, 1995, stated that the final draft of PRDE's monitoring guides would be completed on February 3, 1995 and implemented on February 10, 1995.

PRDE began using the revised monitoring procedures on February 22, 1995 when it visited the Humacao region. PRDE conducted four more monitoring visits in March using the revised procedures, two to school districts (Ponce I and Rio Piedras IV), and two to corporations that provide evaluation and therapy services.

PRDE's MONITORING SYSTEM:

PRDE has a multi-level monitoring system, in which the central level, educational regions, and school districts all have a specific role that is performed in stages over a three-year period. Each level selects a monitoring team and provides training in the monitoring process, including the development of corrective action plans. All three levels work in collaboration to monitor all educational regions, school districts, schools (public and private), and contract agencies on a three-year cycle.

Schools and School Districts: Every year each school district must monitor 1/3 of its schools with each school monitored at least once during a three-year cycle. The school districts select 1/3 of the public schools, one private school, and one special school. Both urban and rural schools are monitored as well as placements in homebound, prevocational, and

vocational programs. In addition, schools and school districts must conduct a self-evaluation each year to assess the effectiveness of their special education programs. Parents are included in this process. School districts must send questionnaires to at least five parents that ask about the quality of the special education services provided to their children. The accuracy of the self-evaluation reports is verified by the district-level monitoring team.

The school district submits a report of findings to each school it has monitored, and the schools respond with a corrective action plan (CAP) that must meet with district approval. The school district sends a copy of the monitoring report and the CAP to their regional directors and the central office monitoring unit.

Educational Regions: The regional monitoring team visits 1/3 of its constituent districts every year during the three-year monitoring cycle. Attempts are made to get a representative sample of districts each year by selecting districts according to the following criteria: size, number of private schools, co-location of state institutions, and those that serve students with a wide range of disabilities. The region submits a report of findings to the school districts. The regional director, in collaboration with the school superintendent and/or the school principal, develops the corrective actions. The region submits a copy of the report of findings and the agreed upon corrective actions to the central office monitoring unit. The educational regions also notify the central office monitoring unit of those school districts or other institutions that do not develop and implement a corrective action plan within the required 30-day time frame.

Central Office Monitoring Unit: Each year, the monitoring unit at the central level visits the seven educational regions, all of the therapy and evaluation centers, and 1/3 of the school districts and schools, including private schools and institutions, that have not been monitored that year by the regions and districts. The central office monitoring unit submits a report of findings, assists in the development of corrective actions, and analyzes and approves the CAPs of the educational regions, districts, and therapy and evaluation centers.

The central office monitoring unit also conducts follow-up visits to districts that it did not monitor directly to ensure correction of deficiencies identified in the districts' self-evaluation reports. Within 30 days of approving the CAPs, the

central office monitoring unit conducts follow-up visits to the regions to ensure implementation. The central office monitoring unit also notifies the Secretary of Education, who has the authority to apply sanctions, about those school districts, regions, or other institutions that do not develop and/or implement a corrective action plan within the required 30-day time frame. In both situations, the Secretary of Education will take the necessary administrative measures and apply the necessary sanctions.

FINDING: OSEP finds that PRDE has not met its responsibility to monitor public agencies responsible for carrying out special education programs. Section 441(b)(3)(A) of the General Education Provisions Act.

a. PRDE monitored none of its school districts from 1992 through 1994. During 1991, PRDE only monitored three school districts. In March 1995, PRDE monitored three school districts.

Based on a review of all existing monitoring reports and records, Table I-A, below, illustrates the absence of a comprehensive monitoring system by describing PRDE's monitoring activity since OSEP's last visit in January 1991. PRDE was required, by its last corrective action plan, to submit to OSEP by November 1991, documentation that it had implemented monitoring procedures revised in accordance with that corrective action plan. On February 14, 1992, PRDE submitted a report on its progress in completing its corrective actions. The status of this requirement was reported as "in process." Thus, PRDE never fulfilled its commitment to monitor.

At the time of OSEP's visit during the week of March 27, 1995, PRDE had not completed reports on its monitoring visits to three districts and two corporations contracted to provide related services. These were the first monitoring activities carried out by PRDE under its new procedures. OSEP, therefore, was unable to evaluate the effectiveness of PRDE's monitoring procedures in practice.

TABLE II-A
Review of PRDE Monitoring Activity Based on PRDE's Existing Information

REGION	DISTRICT	LAST REPORT ISSUED
Mayaguez	Moca	Monitoring Report: 2/91 - 3/91 Corrective Action Plan: 3/17/95
	Cabo Rojo	2/90 - 3/90
	Mayaguez I	Monitoring Report: 2/90-3/90 Corrective Action Plan: 3/1/95
	Sabana Grande	2/90 - 3/90
	San German	Monitoring Report Issued: Corrective Action Plan: 3/2/95
Ponce	Ponce I	3/91 - 4/91
	Ponce IV	3/91 - 4/91
San Juan	Carolina III	3/90
	Rio Piedras	3/90
	Rio Piedras III	3/90
	Rio Piedras IV	4/90
	San Juan II	3/90
	Trujillo Alto	3/90
Caguas	Comerio	3/90
	Guayama	3/90
Arecibo	Arecibo I	2/90 - 3/90
	Barceloneta	2/90 - 3/90
Humacao		2/22/95
Ponce	Ponce I	3/15/95
San Juan	Rio Piedras IV	3/9/95
Corporation: Evaluation and Therapy Services of the Southeast		3/2/95
Corporation: CANI Institute		3/1/95

b. In an interview with OSEP, PRDE staff stated it has no record of monitoring juvenile institutions that provide special education and related services. Procedures recently developed by PRDE to monitor these facilities have not been implemented. There are eight juvenile facilities which include 71 children and youth with disabilities, ages 14 through 21.

c. OSEP reviewed PRDE's newly-adopted monitoring procedures, and interviewed PRDE's monitoring official and determined that the provisions for ensuring the implementation of Federal requirements did not address, or incompletely addressed, certain requirements as specified below in Table II-B.

TABLE II-B
Federal Requirements for Which PRDE Has Incomplete
Methods or No Methods for Identifying Implementation
Deficiencies

FEDERAL REGULATORY CITATION	DESCRIPTION OF FEDERAL REQUIREMENT	PRDE'S MONITORING PROCEDURES
300.300	Public agencies must provide ESY services to all students with disabilities who require those services to receive FAPE, including students who require such services because they experience significant regression in academic areas.	Absent
300.346(a)(5)	The IEP for each child must include appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.	PRDE's monitoring instrument includes an element to ensure that IEP's contain evaluation procedures but does not include an element to ensure that evaluation <u>schedules</u> are included.
300.346(a)	The IEP must include all of the content specified under 300.346(a)(1-5).	PRDE's monitoring procedures do not ensure that related services on the IEP include the content required under 300.346(a)(1-5).
300.504	Parents' rights must be provided every time a public agency proposes to initiate or change, or refuses to initiate or change the identification, evaluation, and placement of the child, or the provision of FAPE to the child.	Absent
300.505	Prior notice under 300.504 must include a description of the action proposed or refused and provide explanations for proposing or refusing and a description of any options considered, and the reasons those options were rejected.	Absent
300.514(c)(2)(i)	Public agencies shall ensure that a person selected as a surrogate has no interest that conflicts with the interests of the child he or she represents.	Absent
300.543(b)	PRDE shall ensure that public agencies establish and implement	Absent

FEDERAL REGULATORY CITATION	DESCRIPTION OF FEDERAL REQUIREMENT	PRDE'S MONITORING PROCEDURES
	additional procedures for evaluating children with specific learning disabilities in accordance with the requirements specified under 300.540 - 300.543. Section 300.543 requires the team to prepare a written report of the results of the evaluation that addresses the statements identified in 300.543(b)(1) - (7), including certification in writing that the report reflects the conclusions of each team member.	
300.552(c)	Public agencies shall ensure that unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.	PRDE's monitoring guides include this regulatory cite but do not set forth criteria for determining compliance with the requirement.
300.553	Public agencies shall ensure that each child with a disability participates with children who do not have disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of that child (300.553)	Same as above.

- B. PRDE must adopt written procedures for informing parents and other interested individuals about the complaint procedures under 300.660-300.662 for resolving any complaint that includes a statement that PRDE or a subgrantee has violated a requirement of Part B of the IDEA or of this part.**

BACKGROUND

PRDE is required to have procedures for resolving any signed, written, complaint that includes a statement that a public agency has violated a requirement of Part B, and the facts on which the

At the time of OSEP's visit, PRDE's monitoring procedures had not been implemented. Although PRDE included the federal regulatory cite in its monitoring instrument, procedures for monitoring the requirement were omitted. PRDE's monitoring official, in an interview with OSEP, stated that procedures were necessary to monitor effectively compliance with this requirement.

statement is based. As a result of a court decision in Puerto Rico, the system for handling all complaints alleging violations of Part B were subsumed under the due process procedures established by 34 C.F.R. 300.500 to 300.515.

OSEP found, during its 1991 monitoring visit, that PRDE had not met its responsibility to adopt written procedures for complaint management which met the requirements of 76.780-76.783. PRDE explained that it established the Complaint Follow-up Unit in 1985 at the direction of the court. The purpose of this Unit is to investigate complaints filed with the court regarding PRDE's provision of special education and related services to individuals with disabilities in the Commonwealth. The Follow-up Unit also kept the court and the plaintiff's legal counsel informed of the facts and disposition of each complaint that was filed. PRDE's current practice is to investigate any complaint that is filed with it concerning the provision of special education and related services. These complaints, however, are treated as requests for a due process hearing. Any party that files a complaint is provided with legal counsel at no charge. This procedure is followed whether the party that files the complaint specifically requests due process or is filing a complaint under 34 C.F.R. 300.660 to 300.662. In effect, PRDE's due process system, as implemented through the Complaint

Complaint procedures previously established at 76.780-76.783 are now found at 300.660-300.662 in a revised form.

The Rosa Lydia Velez v. Arroque class action was filed against PRDE in 1980 on behalf of fifty children in Puerto Rico who required special education and related services. In 1981, the Court expanded the plaintiff class to include all children in Puerto Rico who required special education and related services.

This class action resulted in a court order that governs many aspects of Puerto Rico's special education system. In 1983, a special master was appointed by the court to manage the implementation of this order on a day-to-day basis. According to the special master and PRDE's attorneys, the court's resolution of individual complaints filed by members of the plaintiff class became a substitute for the Part B due process system. PRDE was ordered by the court to develop due process procedures to handle complaints regarding the provision of special education and related services. As a result of this court order, PRDE established the Complaint Follow-up Unit in 1985. The Court maintains jurisdiction over PRDE's due process system and monitors PRDE for compliance with the order.

Follow-up Unit, has subsumed the State Complaint Procedures. PRDE officials indicated that PRDE has no procedure for informing parents and other complainants in writing of the resolution of the complaints they filed.

The corrective action in the 1991 Report required PRDE to adopt and submit to OSEP complaint management procedures consistent with the requirements of 76.780-76.783, and documentation that the revised procedures had been implemented. PRDE included the required procedures in its State plan for FY 1993-1995, which OSEP approved. Since that time, in September 1992, the IDEA regulations were amended to include, among other things, revised complaint procedures at 300.660-300.662, which PRDE has not included.

FINDING: OSEP finds that PRDE has not met its responsibility to establish complaint procedures consistent with the revised requirements under 300.660-300.662 to inform parents and other interested individuals about these procedures, including the right of the complainant or public agency to request the United States Secretary of Education to review PRDE's final decision.

a. A PRDE official informed OSEP that although districts are supposed to inform parents about the 300.660-300.662 procedures for resolving complaints, it is more often the case that parents of children with disabilities are informed about due process procedures for resolving special education issues. PRDE interprets the court order, which is part of the Velez v. Arroque class action suit, to require the resolution of all special education complaints through the due process procedures. Therefore, as this official explained, a "complaint" is treated as a request for a due process hearing.

According to this official, the 300.660-300.662 complaint procedures are used only when allegations are made against an individual PRDE employee for unprofessional conduct that could result in a sanction against that individual. These procedures have never been used in special education cases.

b. A PRDE official informed OSEP that PRDE's complaint procedures were established in its approved State plan. OSEP reviewed the Plan and found that procedures consistent with the requirements of 76.780-76.783 were established. However, PRDE has not revised these procedures so they are consistent with 300.660-300.662.

FINDING/ FEDERAL REQUIREMENT	EXPECTED OUTCOME/ACTION REQUIRED	ACTIVITIES TO MEET OUTCOME REQUIREMENT	RESOURCES	TIMELINE FOR SUBMISSION
General Supervision 1. 20 U.S.C. 1232d(b)(3)(E), 76.772(a)(3) and 300.556(b)(2) (Monitoring: Adopt and use proper methods to identify and correct deficiencies)	PRDE must adopt and use effective methods of administering each program, including: (1) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions and organizations under the law; and (2) correction of deficiencies in program operations that are identified through monitoring and evaluation.			
2. 300.660 - 300.662 (Adopt and use complaint management procedures)	PRDE must adopt written procedures for informing parents and other interested individuals about the complaint procedures under 300.660-300.662 for resolving any complaint that includes a statement that PRDE or a subgrantee has violated a requirement of Part B of the IDEA or of this part.			

III. DUE PROCESS AND PROCEDURAL SAFEGUARDS

- A. PRDE is responsible for establishing and implementing procedures which meet the requirements of 300.500-300.515, including ensuring that not later than 45 days after the receipt of a request for a due process hearing a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties, unless the hearing officer grants a specific extension of time beyond the 45 day timeline at the request of either party.(300.512)

PRDE's Procedures for Resolving Disputes Under Part B

Under PRDE's procedures, parents initiate a due process hearing by filing a complaint with a district. The superintendent forwards that complaint to PRDE's Legal Division. The Legal Division, with the assistance of the Follow-up Unit, investigates the complaint and responds to it with a formal answer that sets out PRDE's position on the allegation. PRDE, if it agrees with the complainant, proposes a solution and instructs the responsible school district to remedy the problem. If PRDE does not agree with the complainant, the matter is forwarded for resolution through the due process procedures established in the Arroque class action.

Under the Arroque procedures, mediation is provided within 5 days after the Legal Division has received the complaint. If the complaint is not resolved by mediation, the Legal Division assigns the matter to a hearing officer. The hearing officer schedules a hearing. Through out the process complainants are represented, at no cost, by Legal Services.

FINDING : OSEP finds that PRDE did not ensure that a final hearing decision is reached and mailed to each of the parties within 45 days of the receipt of the request for a hearing.

OSEP found, in reviewing PRDE files of the 19 complaints filed in September and October 1994, that final resolutions of all these complaints was overdue. PRDE explained that resolution of these complaints was not timely because of when hearings

PRDE considers all "complaints" regarding special education as matters for due process. See Section II. of this Monitoring Report, supra.

were scheduled by hearing officers. For example, hearings requested on October 17, 1994 and on September 16, 1994 were both scheduled for January 13, 1995, approximately one to two months beyond the 45-day timeline. Hearing officers are

responsible for scheduling the hearings and PRDE acknowledges that they are not adhering to the required timelines.

PRDE's Legal Division is responsible for ensuring that complaints are resolved and written decisions are issued within the 45 day timeline. According to a PRDE official, the Legal Division used to maintain a log of complaints to monitor compliance with the 45 day requirement, but had to abandon this effort because of staffing shortages. A PRDE special education official informed OSEP that the Follow-up Unit is only responsible for alerting the Legal Division if it discovers that decisions are overdue.

B. PRDE is responsible for ensuring that written notice under 300.504 includes a full explanation of all the procedural safeguards available to parents under 300.500, 300.502-300.515, and 300.562-300.569.

FINDING: PRDE did not ensure that prior written notice, which includes a full explanation of procedural safeguards, was provided to parents each time the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

PRDE's monitoring procedures for local schools directs monitors to determine if there is evidence in student files that parents were informed of their rights. Monitoring procedures for the district level direct monitors to determine if the school district offered technical assistance on the

PRDE informed OSEP that it has developed procedures to address this problem. No decision, however, has been reached by PRDE on how these procedures will be implemented and who will be responsible for carrying them out. In addition, Commonwealth regulations, that are not administered by PRDE, may have to be amended before these new procedures can be adopted. The Court ordered PRDE to resolve these issues by May. PRDE has begun recruiting additional personnel to work on due process complaints so that cases can be resolved within the required timelines.

content of notification. Neither of these procedures specifically directs monitors to determine if parents are provided a full explanation of their procedural safeguards at all required times. (See page 15 of this Report.)

OSEP learned, through reports from Puerto Rico's Protection and Advocacy Agency, Office of the Ombudsman for People with Disabilities, and statements of participants in the public meetings OSEP conducted, that parents are not informed of

their rights. PRDE officials told OSEP in an interview that school districts were responsible for providing the notice.

Officials from the regions and districts visited by OSEP stated that parents are provided written notice that includes a full explanation of all the procedural safeguards under 300.500, 300.502-300.515, and 300.562-300.569, when the child is registered, and once a year at the beginning of the school year. OSEP elicited a range of responses from these officials regarding other times when parents are given a full explanation of their rights under Part B. Their responses were as follow: (1) therapists inform parents of their rights when the child enters therapy; (2) phone calls are made to inform parents of their rights when there is a change in services or placement; and (3) parent rights are explained at the IEP meeting.

FINDING/ FEDERAL REQUIREMENT	EXPECTED OUTCOME/ACTION REQUIRED	ACTIVITIES TO MEET OUTCOME REQUIREMENT	RESOURCES	TIMELINE FOR SUBMISSION
Due Process and Procedural Safeguards 1. 300.512(a) (Timelines and convenience of hearings and reviews)	Within 45 days after the receipt of a request for a hearing, a final decision must be reached and a copy of the hearing decision must be mailed to both parties, unless a hearing officer grants specific extensions of time beyond the 45 days at the request of either party.			
2. 300.504 and 300.505 (Prior written notice provision and content)	Prior written notice, which includes a full explanation of all the procedural safeguards available to parents under Part B is provided to parents at each of the times required under 300.504.			

IV. PLACEMENT IN LEAST RESTRICTIVE ENVIRONMENT

PRDE is required to establish and implement procedures, which meet the requirements of 300.550-300.553, regarding the placement of students with disabilities in the least restrictive environment (LRE). 300.550(a). Sections 300.554, 300.555 and 300.556 set forth requirements which must be met by PRDE. In addition, PRDE is required to ensure that each time a public agency proposes or refuses to initiate or change the educational placement of a child with a disability, the agency provides the parents with written notice that informs them of the proposed placement action, and includes an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected. 300.505 (a)(2).

PRDE is responsible under 300.550(a) for ensuring that:

(1) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have disabilities (300.550(b)(1));

(2) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (300.550(b)(2));

(3) The various alternative placements included at 300.551, are available to meet the needs of children with disabilities for special education and related services, and those alternative placements are available to the extent necessary to implement each child's IEP (300.551 and 300.552(b));

(4) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled (300.552(c));

(5) Each child with a disability participates with children who do not have disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of that child (300.553); and

(6) The notice under 300.504 must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take an action, and a description of any options the agency considered and the reasons why those options were rejected (300.505(a)(2)).

In order to meet the requirements of 300.550(b)(2), a public agency must, prior to making any decision to remove the child from the regular education environment, determine whether the child's education can be achieved satisfactorily in the regular education environment with the provision of supplementary services (such as resource room or itinerant instruction) and/or the use of supplementary aids and services. The selection of the appropriate supplementary aids and services must be determined by the IEP committee during the development of the IEP and must be based on the individual needs of the particular student. A description of the supplementary aids and services the child is to receive must be included in the IEP. Supplementary aids and services may include, but are not limited to, curricular adaptations and modifications such as taped textbooks and parallel instruction, modifications to the educational environment, such as preferential seating and the use of study carrels, and/or modifications to the service delivery system, such as the use of an additional instructor or peer tutors.

In determining whether a child with disabilities can be educated satisfactorily in a regular class with supplementary aids and services several factors must be considered, including: (1) whether reasonable efforts have been made to accommodate the child in the regular classroom; (2) the educational benefits available to the child in a regular class, with appropriate supplementary aids and services, as compared to the benefits provided in a special education class; and (3) the possible negative effects of the inclusion of a child on the education of the other students in the class. If, after considering these factors it is determined that the child should be removed from the regular classroom and provided education in a segregated, special education classroom or school, the agency still remains responsible for including the child in school programs with nondisabled children to the maximum extent appropriate.

FINDINGS: OSEP finds that PRDE did not fully meet its responsibility under 300.550(a) to establish and implement procedures that meet all of the requirements of 300.550-553 and the placement-related notice requirements of 300.505(a)(2).

These findings are based upon the review of placement data provided by each of the regions and school districts visited by OSEP, the review of student records and interviews with responsible administrators at both the district and regional levels and teachers who participated in meetings in which placement decisions were made.

PRDE's current monitoring procedures do not include methods for determining whether the LRE requirements under 300.552(c), 300.553, and 300.505(a)(2) are being correctly implemented by public agencies (see pages 15-16). OSEP cannot make any determinations regarding the effectiveness of PRDE's monitoring system to identify and correct deficiencies with regard to other LRE requirements because, at the time of OSEP's visit, PRDE had not issued monitoring reports to public agencies that were based on its new procedures.

A. [300.550(b)(2) and 300.552(b)]

Administrators responsible for special education programs and teachers from all of the agencies visited by OSEP reported during interviews that special education instruction in regular classes (i.e., special education instruction pursuant to an IEP without removal to a special education setting) is not available as a placement option for students with disabilities. Specifically, once a child is determined to have a disability and is made eligible for special education services, regular class placement with the use of supplementary aids and services is not considered as an initial placement option by the placement team for students with disabilities. Administrators and teachers in the agencies visited further stated that for students with disabilities being served in regular education classes, special education services are provided only as a "pull-out" service. These students do not have the option of receiving special education services in the regular education classroom.

Teachers interviewed by OSEP reported that this option is not available to students with disabilities, particularly students with learning disabilities, who would benefit from it because there is insufficient collaboration between special education staff and regular education staff. The teachers stated that there were students with disabilities in their classes who could be successful in regular education classrooms given the necessary supports such as use of tutors, adapted curriculum, and modified testing (including allowing additional time for test taking), but there were barriers to integration, such as training for regular

education teachers, and scheduling conflicts among regular education, special education and related services.

District and regional administrators in Regions A, B, and C confirmed that placement data for their districts, provided at OSEP's request, indicated that students with disabilities are not placed in regular classrooms with the use of supplementary aids and services. OSEP further asked administrators in Regions D and E to explain why there were so few students with disabilities being served in regular education classes. These administrators explained to OSEP that the number of students with disabilities being served in this option is very low. Districts are just now beginning to move toward mainstreaming younger students with disabilities in regular education classes with the use of supplementary aids and services. These administrators also confirmed that they have not begun to address the mainstreaming needs of secondary school-age students. The administrators

stated that it was their belief that more students could benefit from this program option if it were available.

B. [300.551, and 300.552(b) and (c)]

Regional and district administrators in Regions C and D confirmed in interviews with OSEP that students with mental retardation, emotional disturbance, and severe disabilities are, for the most part, categorically served in self-contained classes or separate school programs outside of the schools they would attend if not disabled. The administrators explained that there were a few students with mild mental retardation between the ages of 12-17 being served in resource room programs. According to these officials, the reasons why most students with mental retardation, emotional disturbance and severe disabilities are placed in segregated programs are parent preference, category of disability, level of functioning and accessibility of regular school classes and buildings. Because the services to these students are available only in separate classrooms and schools, outside their home schools, no individual determinations are made regarding the appropriateness of providing these services in less restrictive settings. Region C administrators also reported to OSEP that all students with disabilities who need vocational education programming are placed in a separate vocational program outside of the schools they would attend if not disabled because the vocational program is located in a neighboring district.

Region A administrators corroborated a teacher's report to OSEP that students over six years old with Down Syndrome are

categorically served in self-contained classes. The administrators stated that the belief of district staff that students with Down Syndrome should be in separate classes is changing because of early intervention and Head Start programs. These developments, according to the administrators, will result in younger students with Down Syndrome having a better chance of being served in regular education classes and activities. In addition, the administrators from agency B confirmed that students with autism are only served in self-contained classes outside of their home schools. Agency B administrators informed OSEP that all students with disabilities who need vocational education programming are placed in a separate vocational program outside of the schools they would attend if not disabled. Based on the data collected in all of the agencies visited, OSEP has concluded that individualized determinations are not made regarding the placement of all students with disabilities in the various alternative placements included at 300.551.

C. [300.550(b)(1) and 300.553]

Several administrators and teachers from Region C reported to OSEP that IEP teams do not make individualized determinations on the maximum extent to which it is appropriate for each student placed in separate schools to be educated with students who do not have disabilities or participate with them in nonacademic and extra-curricular activities. The teachers at the separate center stated that there are no students who currently participate in any regular education programming. The teachers further explained that if the curriculum (self-help skills) and support services were available in regular education buildings, students in their classes could be successful in less restrictive settings. OSEP learned from PRDE officials that parent opposition is a barrier to less restrictive placements for the students at the separate facility.

During interviews with OSEP staff, administrators and teachers in Regions B, D, and E indicated that no individualized determinations are made regarding the maximum extent to which it is appropriate for each student placed in a separate class to be educated with students who do not have disabilities or participate with them in nonacademic and extra-curricular activities. The group developing the IEP and determining the placement for each student does not consider, on an individual basis, a student's need for educational opportunities in regular education classes and nonacademic and extracurricular activities with students who do not have disabilities.

One administrator and a teacher in Region B reported to OSEP that none of the students in the teacher's self-contained class participated in academic or nonacademic activities with their nondisabled peers during the school day, even though, as the teacher stated, some would benefit. Another administrator and a teacher of a separate class in Region D informed OSEP that all of the students with disabilities in the class are mainstreamed in theater or health as an elective. OSEP's review of the student records of six students in the separate class indicated no regular education participation for any of the students. The teacher further explained that one of the six students was participating in a regular education health class, but the other students chose not to participate in health or theater. The administrator confirmed the teacher's statement that the students in the separate class have the option of participating in health or theater as an elective. Region B did not make any other regular education classes available for the students with disabilities in the separate class.

In region E, OSEP reviewed the records of students with disabilities who were placed at a separate vocational school. The IEPs for the students whose records were reviewed did not indicate any regular education participation. In addition, these records contained no indication that regular education participation was considered or discussed for each student by the IEP/placement team. OSEP interviewed responsible Region E administrators on the opportunities that are available for students at the separate school to participate in regular education classes and activities with their nondisabled peers. The administrators informed OSEP that students with disabilities at the separate school have, on occasion, been invited to and have attended the school wide activities, (i.e., game day) that are sponsored by the two regular education schools that are located in close proximity to the separate school. The administrators confirmed that the IEP/placement team does not consider, on an individual basis, integration opportunities for students placed in the separate school program.

D. [300.505(a)(2)]

It was reported to OSEP by administrators and teachers in all of the regions and districts visited by OSEP that the policy and practice of these agencies was to document all discussions of the IEP team regarding placement options proposed or refused. The documentation of this discussion serves as the formal notice to parents of the educational placement of their child when placement in special education occurs for the first time and when

the placement is being reviewed. OSEP found, by reviewing student records, that the districts it monitored did not comply with the Part B requirement that parents be given, at the time of initial placement or a change in placement, a notice that describes the placement options considered by the district and the reasons for rejecting any of those options. The administrators of the regions and districts visited confirmed that the established policy is to discuss placement options at the IEP meeting and document the discussion as part of the IEP development process. OSEP was told that the IEP serves as the notice to parents for any placement decision, including initial placements and subsequent reviews to determine whether a change in placement is required. However, in practice, OSEP verified that IEP minutes and IEPs do not describe any options the district considered and the reasons why those options were rejected.

FINDING/FEDERAL REQUIREMENT	EXPECTED OUTCOME/ACTION REQUIRED	ACTIVITIES TO MEET OUTCOME REQUIREMENT	RESOURCES	TIMELINE FOR SUBMISSION
Least Restrictive Environment (LRE) 1. Removal from the regular education environment and continuum of alternative placements to implement the IEP (300.550(b)(2) and 300.552(b)).	Placement in the regular education classroom with the use of supplementary aids and services must be a placement option for students initially placed into special education as well as for those students who had previously been removed from the regular education environment.			
2. Variety of options available to provide integration with nondisabled peers. (300.551, 300.552(b) and (c))	PRDE must ensure that individualized determinations are made regarding the placement of all students with disabilities in the various alternative placements in the school the student would attend if not disabled.			
3. Educated with nondisabled peers and nonacademic and extracurricular activities. (300.550(b)(1) and 300.553)	There must be consideration of the maximum extent to which students with disabilities can participate in regular education classes or extra-curricular or nonacademic programs with their nondisabled peers. A special focus of this activity must include consideration of such participation for those students who have been removed from the regular education environment to separate classes or separate schools.			
4. Notice which describes options considered and reasons why those options were rejected. (300.505(a)(2))	PRDE must ensure that the notice it uses to inform parents of the placement decision must fully document the placement options considered and the reasons why those options were rejected.			

**V. INDIVIDUALIZED EDUCATION PROGRAM INCLUDING STATEMENT
OF NEEDED TRANSITION SERVICES**

PRDE is required to develop and implement an IEP for each student with disabilities, beginning no later than age 16 (and at a younger age, if appropriate) that contains a statement of needed transition services, developed in accordance with the requirements specified in 300.18, 300.344, 300.345, 300.346 and 300.347, that each IEP includes a statement of annual goals and short-term objectives for each special education and related service in the child's IEP and that the IEP of each child with a disability includes appropriate objective criteria and evaluation procedures and schedules for determining whether short-term objectives are being achieved consistent with 300.346(a)(5) and 300.346(a)(2).

TRANSITION SERVICES AND POSTSCHOOL SUCCESS

The inclusion of a transition plan within the IEPs of students 16 years of age and older has been shown to be positively related to the achievement of postschool outcomes such as employment, postsecondary education and training and independent living. For instance, the National Longitudinal Transition Study of Special Education Students (NLTS) has shown that postschool success was associated with youth who had a transition plan in high school that specified an outcome, such as employment, as a goal.

The postsecondary performance of former students with disabilities is significantly worse than that for former students who do not have disabilities. The NLTS reports that the rate of competitive employment for youth with disabilities out of school for three to five years was 57 per cent, compared to an employment rate of 69 per cent for youth in the general population. The NLTS identified several factors that were associated with postschool success in obtaining employment and earning higher wages for youth with disabilities. These included completing high school, spending more time in regular education, and taking vocational education in secondary school.

PUERTO RICO'S TRANSITION SERVICES

Puerto Rico has implemented several initiatives to improve transition services for students with disabilities. These include establishing interagency agreements with the Puerto Rico Departments of Labor and Vocation and Rehabilitation, and

training key personnel in the transition requirements, as well as implementing transition planning programs for students beginning at age 12. Transition planning begins early in Puerto Rico because PRDE's research shows that students at risk for dropping out of school display high risk behaviors such as truancy, at an early age. Puerto Rico's programs for 12 year old children include prevocational programs that prepare students in their fields of interest.

OSEP'S MONITORING PROCEDURES FOR TRANSITION SERVICES

In Regions C, D and E, OSEP focused on the records of students who were 16 years and older in order to determine whether the Federal transition requirements were being met. OSEP reviewed the records of 38 students enrolled in special education programs in these three Regions.

In addition, OSEP interviewed the students' teachers who participated in the IEP meetings, and the principals and administrators responsible for the provision of special education services.

FINDINGS: OSEP finds that PRDE did not ensure, in all cases, that public agencies implemented the policies and procedures needed to carry out fully the Part B transition requirements.

PRDE's current monitoring procedures include methods for determining whether the transition requirements are being correctly implemented by public agencies. However, OSEP cannot make any determinations regarding the effectiveness of PRDE's monitoring system to identify and correct deficiencies with regard to the transition requirements because, at the time of OSEP's visit, PRDE had not issued monitoring reports to public agencies that were based on its new procedures.

1. Statement of Needed Transition Services

Each public agency is required to ensure that the IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate), contain a statement of the needed transition services defined in 300.18. This statement should include, if appropriate, a delineation of each public and participating agency's responsibilities and/or linkages, before the student leaves the school setting. If the IEP team determines that services are not needed in one or more of the areas specified in 300.18(b)(2)(i) through (b)(2)(iii), the IEP

must include a statement to that effect and the basis for that determination (300.346(b)(2)).

None of the IEPs for the 38 students who were 16 years or older included either a statement of needed services in each of the three areas identified above, or when the IEP team determined that any of the three services were not needed, a statement to that effect and the basis for the determination. In four instances, the IEPs for students 16 years of age or older contained no statement of transition services. In 25 cases, the statements of transition services specified only one area and did not explain the basis for not addressing the other two areas. In 9 cases, the statements of transition services specified two areas but did not explain the basis for not addressing the other areas.

Puerto Rico's practice is for transition statements to be incorporated within the annual goals and short term objectives of the IEP, rather than addressed separately. However, OSEP noted that very few of the annual goals and short term objectives in IEPs reviewed by OSEP included a statement of the needed transition services in the area of community experiences.

2. Transition Services Participants - A Representative Of Any Other Agency

Each public agency is responsible for ensuring that IEP meetings consider transition services include a representative of any other agency that is likely to be responsible for providing or paying for those services (300.344(c)(ii)). In addition, each public agency is required to ensure that the IEP for each student, beginning no later than age 16 (and, if appropriate, at a younger age), include a statement of the needed transition services defined in 300.18, including, if appropriate, a delineation of each public and participating agency's responsibilities and/or linkages, before the student leaves the school setting (300.346(b)(1)).

A review of the records of the 38 students who were 16 years or older indicated that in no cases had invitations to IEP meeting

The areas specified in 300.18(b)(2)(i) through (b)(2)(iii) are instruction, community experiences, and the development of employment and other post-school adult living objectives.

been made to representatives of any other agency likely to be responsible for providing or paying for transition services.

In Region C, a teacher told OSEP that she had never attended an IEP meeting where representatives of outside agencies had participated in the development of statements of needed transition services. The social worker stated and the zone supervisor confirmed that when a student turns 21, a meeting is held to discuss alternative programs for those students exiting the special education program. Representatives of other agencies, however, are not invited to participate in IEP meetings prior to the student turning 21.

In Region D, a teacher stated and the zone supervisor confirmed that no representatives of other agencies are invited to participate in IEP meetings where transition is to be discussed.

Regional administrators interviewed by OSEP said that all schools in the regions had received orientation on the requirement that representatives of other agencies be invited to IEP meetings, as appropriate. The administrators explained that despite this orientation school staff had not yet implemented this requirement. Part of the difficulty, they explained, was that other agencies need to be made aware of the need to participate in IEP meetings.

In Region E, administrative staff for two of the districts within the Region stated that it was not the practice to invite representatives of other agencies to IEP meetings to participate in the development of transition statements.

3. Notice Requirements

Each public agency is required to ensure that notice of IEP meetings that will consider transition services for a student indicate this purpose, that the agency will invite the student, and identify any other agency that will be invited to send a representative. (300.345(b)(2)).

OSEP found that PRDE's meeting notice for students 16 years or older, used in schools visited by OSEP, did not specify that a purpose of IEP meetings is to consider transition services.

Administrators in each of the three regions reviewed by OSEP confirmed that the notice did not specify that transition services would be considered. The public agencies were using the PRDE's recommended notice.

FINDING: OSEP finds that PRDE did not fully meet its responsibility to ensure that each child's IEP includes a statement of annual goals, including short-term objectives.

PRDE's monitoring procedure directs monitors to determine if IEPs contain statements of annual goals including short-term objectives. The monitoring system, however, does not include a method to ensure that IEPs contain statements of annual goals including short-term objectives, for related services. PRDE's monitoring instrument directs monitors to determine if a "work plan" is included in the files for children who receive related services, but work plans, as a matter of general practice, do not contain the required statement of annual goals and short-term objectives.

OSEP reviewed 14 IEPs of students who were receiving related services such as speech, occupational therapy, physical therapy and counseling. None of the IEPs included goals and short-term objectives that addressed the related services received by these students.

At each site OSEP visited, we asked regional and district administrators why no goals and objectives for related services were included in IEPs. These administrators explained that therapists did not attend IEP meetings and that in most cases, the related services were not provided at the school. Students were transported to other locations (CETs), sometimes losing as much as a half day of instruction, in order to receive necessary related services. Although therapists developed work plans, these work plans were not typically included in student files.

FINDING: OSEP finds that PRDE did not fully meet its responsibility to ensure that each child's IEP included appropriate objective criteria and schedules to determine whether short-term instructional objectives are being achieved.

PRDE's revised monitoring system has a method for determining if IEPs contain objective criteria, which are referred to in the monitoring instruments as "evaluation criteria," but does not include a method for ensuring that IEPs contain evaluation schedules.

OSEP reviewed one work plan and determined that it described the proposed therapies that would be used with the students, but did not include a statement of annuals goals and short term objectives.

None of the 36 student records reviewed by OSEP, included objective criteria and/or evaluation schedules.

No IEPs included schedules for determining progress in meeting short term objectives. In some cases, previously developed IEPs were used to record progress at various points during the school year. While there is nothing wrong with the practice of noting progress on IEPs during the school year, this does not fulfill the requirement of determining a schedule for evaluating short term objectives at the time the IEP is written.

Thirty-three of the 36 IEPs reviewed contained no criteria for determining the extent to which short term objectives were being achieved. In some cases, an overall criteria, such a percentage, was included as a part of the annual goal statement, but no criteria were included for each short term objective.

For Region E IEPs, OSEP made no determinations regarding the inclusion of procedures, criteria, and schedules for evaluating short term objectives. This requirement was not reviewed in Region E so that OSEP staff could review a larger sample of IEPs and focus on specific issues concerning students with hearing impairments.

FINDING/FEDERAL REQUIREMENT	EXPECTED OUTCOME/ACTION REQUIRED	ACTIVITIES TO MEET OUTCOME REQUIREMENT	RESOURCES	TIMELINE FOR SUBMISSION
Transition 1. 300.18, 300.346(b) (Statement of transition services - required IEP content)	Beginning no later than age 16 (and at a younger age, if determined appropriate), public agencies must include a statement of the needed transition services as defined in 300.18. If the IEP team determines that services are not needed in one or more of the areas specified in 300.18(b)(2)(i) through (b)(2)(iii), the IEP must include a statement to that effect and the basis upon which the determination was made (300.346(b)(2)).			
2. 300.344(c) (Meeting participants)	IEP meetings for students aged 16 and older (and at a younger age, if determined appropriate) must include a representative of any other agency that is likely to be responsible for providing or paying for transition services (300.344(c)(ii)). The statement of the needed transition services must include, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting (300.346(b)(1)).			
3. 300.345 (Content of notice)	The notice of IEP meetings to consider the provision of transition services must specify that such consideration is a purpose of the meeting.			
4. 300.346(a)(2) (Content of individualized education plan)	IEPs must include a statement of annual goals and short-term objectives for each special education and related service in the child's IEP (300.346(a)(2)).			
5. 300.346(a)(5) (Content of individualized education plan)	IEPs of each child with a disability must include appropriate objective criteria and evaluation procedures and schedules for determining whether short-term objectives are being achieved consistent with 300.346(a)(5).			

PROTECTION IN EVALUATION PROCEDURES

PRDE is required to ensure that public agencies establish and implement additional procedures for evaluating children with specific learning disabilities in accordance with the requirements specified under 300.540 - 300.543. Section 300.543 requires that the team must prepare a written report of the results of the evaluation that addresses the statements identified in 300.543(b)(1) - (7), including certification in writing that the report reflects the conclusions of each team member.

FINDING:

OSEP finds that PRDE did not consistently meet its responsibility under 300.543 to ensure that a written report of the results of the evaluation for each child suspected of having a learning disability include the additional written documentation specified under 300.543(b) and (c).

PRDE's current monitoring system does not include a method for determining that a written report that meets the requirements of 300.543 is developed regarding an evaluation of a child suspected of having a specific learning disability.

In 9 of 9 files reviewed of students with learning disabilities in agencies A, B and D, there was no written report that included a statement which addressed all of the components specified at 300.543(b) and (c).

During interviews with OSEP staff, administrators and teachers in Regions A, B and D confirmed that written reports which address the components specified at 300.543(b) and (c) are not developed for students with learning disabilities when eligibility is determined. One regional administrator explained to OSEP that they used to have a regional multidisciplinary team (MDT) which had responsibility for developing an LD report, but because the process was very slow, the responsibility was transferred to a district level team. Administrators at the district level reported to OSEP that there should be a district level MDT which develops this report, however, they do not have the personnel to carry out that responsibility. One regional administrator was unaware of the additional LD evaluation procedures including the requirement for a written report.

FINDING/FEDERAL REQUIREMENT	EXPECTED OUTCOME/ACTION REQUIRED	ACTIVITIES TO MEET OUTCOME REQUIREMENT	RESOURCES	TIMELINE FOR SUBMISSION
Protection in Evaluation Procedures 1. 300.543 (a) and (b) (Written LD Report)	Each team must prepare a written report of the results of the evaluation that addresses the statements identified in 300.543(b)(1) - (7), including certification in writing that the report reflects the conclusions of each team member.			

APPENDIX
Public Agency Key Reference

OSEP visited schools in five regions as part of its review of PRDE's implementation of Part B. Where appropriate, OSEP has included in this Report data collected from those schools to support or clarify the OSEP findings regarding the sufficiency and effectiveness of PRDE's systems for ensuring compliance with the requirements of Part B. The school in which the supporting or clarifying data were collected is indicated by a designation such as "school A." The agencies that OSEP visited and the designation used to identify those agencies in this Report are set forth below:

Region A	:	[Caguas]
Region B	:	[Ponce]
Region C	:	[Arecibo]
Region D	:	[San Juan]
Region E	:	[Mayaguez]